IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Bhanwar Singh Vs. Rajshri

S.B.CR.MISC. PETITION NO.264/2005

DATE OF ORDER :: October 12, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.J.R.Beniwal, for the petitioner.
Mr. R.S.Choudhary, for non-petitioner.

BY THE COURT:

This criminal misc. petition under section 482 Cr.P.C. is directed against the order dt. 15.2.2005 passed by the Sessions Judge, Churu (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioner against the order dt. 23.9.2004 passed by the Judicial Magistrate, Sardarshahar, Churu (for short 'the trial court' hereinafter) allowing the application filed by non-petitioner under section 125 Cr.P.C. and granting monthly allowance of maintenance at the rate of Rs.1500/- per month in favour of non-petitioner, was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders of the trial court as well as of the revisional court.

It is contended by the learned counsel for the petitioner that the wife of the petitioner and mother of non-petitioner Rajshri is a Govt. teacher and earns Rs.7000-8000/- per month and the non-petitioner is presently residing with her and, therefore, she being employed and having source of earning is also under an obligation to equally contribute and maintain the minor daughter.

In Padamja Shamra vs. Ratan Lal Sharma, **AIR 2000 SC 1398,** the Apex Court has held that in a case where both the parents of child are employed then both are obliged to pay maintenance and not only father of child in proportion of their salaries.

Keeping in view the aforesaid decision of the Hon'ble Supreme Court, in my view the monthly allowance of maintenance of Rs.1500/- per month granted in favour of non-petitioner and against the petitioner deserves to be reduced to Rs.750/- and rest Rs.750/- can be contributed by Smt. Praveen though whom the application for maintenance has been filed

from her earnings as she is obliged to pay the maintenance in proportion of her salary.

In the result, the order impugned is modified to the extent that the petitioner is liable to pay a sum of Rs.750/- to the non-petitioner instead of Rs.1500/-. With this modification, the instant petition is disposed of. Stay petition also stands disposed of.

[H.R.PANWAR],J.

m.asif/-